

1
2
3
4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 DEBORAH A. JONES,

8 Plaintiff,

9 v.

10 WASHINGTON DEPARTMENT OF
HEALTH, et al.,

11 Defendants.
12

CASE NO. C11-5881BHS

ORDER DENYING MOTION
TO PROCEED IN FORMA
PAUPERIS AND MOTION TO
APPOINT COUNSEL

13 This matter comes before the Court on Plaintiff Deborah Jones' ("Jones") motion
14 to proceed in forma pauperis (Dkt. 1), proposed complaint (Dkt. 1-1), and motion to
15 appoint counsel (Dkt. 2). The Court has reviewed the material filed in support of the
16 motions and the remainder of the file and hereby denies the motions for the reasons stated
17 herein.

18 **I. DISCUSSION**

19 On October 26, 2011, Jones moved the Court to proceed in forma pauperis (Dkt. 1)
20 and to appoint counsel (Dkt. 2). Jones alleges that she is a licensed nurse and that the
21 Washington Department of Health ("DOH") initiated a disciplinary proceeding against
22 her in 2006. The proceeding was resolved with a stipulation to informal disposition. The
23 DOH, however, makes the disposition publically available. When Jones applied for a job
24 with the Washington Department of Health and Human Services, she failed to pass the
25 background check because of the disposition. Jones requests a court order removing the
26 disciplinary action and \$3,000,000.00 in damages for her pain and suffering.
27
28

1 The district court may permit indigent litigants to proceed in forma pauperis upon
2 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the
3 Court has broad discretion in denying an application to proceed in forma pauperis.
4 *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). “A
5 district court may deny leave to proceed in forma pauperis at the outset if it appears from
6 the face of the proposed complaint that the action is frivolous or without merit.” *Tripati*
7 *v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987).

8 In this case, Jones fails to provide the Court with sufficient information regarding
9 the particular violations of federal law that support any cause of action against the named
10 defendants. First, the stipulation that Jones signed contained a paragraph which states
11 that the document, including the allegations of misconduct, is subject to the federal
12 reporting requirements and that it “is a public document and will be available on the
13 Department of Health web site.” Because it appears that Jones agreed that the document
14 would be publically available, it is doubtful that the Court has the power to order the
15 removal of the document from the DOH’s website.
16

17 Second, Jones has failed to show that she has exhausted any administrative
18 remedies that may be available. For example, Jones may dispute the accuracy of the
19 information that is subject to the federal reporting requirements. *See* 45 C.F.R. § 61.15
20 (“How to dispute the accuracy of Healthcare Integrity and Protection Data Bank
21 information”). Jones’ complaint does not contain any allegation regarding whether she
22 has exhausted all available alternative remedies.


23 Therefore, the Court finds that, based on the face of Jones’ complaint, this action
24 appears to be without merit.

25 II. ORDER

26 Therefore, it is hereby **ORDERED** that Jones’ motion to proceed in forma
27 pauperis (Dkt. 1) and Jones’ motion for appointment of counsel (Dkt. 2) are **DENIED**.
28

1 The complaint will not be accepted unless the filing fee is paid on or before November
2 30, 2011. However, even if the fee is paid, Jones is hereby informed that the claims
3 asserted in the proposed complaint appear to be without merit and will likely result in
4 dismissal of Jones' case.

5 DATED this 31st day of October, 2011.

6
7 
8 BENJAMIN H. SETTLE
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28